

Atty. Docket No.: 31840-520

#6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Tim WILKINSON et al.

Serial No.: 09/931,648

Filed: August 14, 2001

For: PORTABLE OPERATING  
ENVIRONMENT FOR  
INFORMATION DEVICES

) Group Art Unit: 2671

) Examiner: To be assigned

) Confirmation No.: 2841

RECEIVED

FEB 04 2004

Technology Center 2600

MAIL STOP PETITION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT**

Dear Sir or Madam:

Applicants hereby petition the Commissioner to withdraw the Notice of Abandonment mailed on August 4, 2003 (Exhibit A, attached hereto). The Notice incorrectly stated that the Applicants failed to timely respond to the Notice to File Missing Parts of Nonprovisional Application mailed on September 27, 2001 (Exhibit B, attached hereto).

Actually, Applicants did file a timely and proper response to the Notice to File Missing Parts of Nonprovisional Application. More particularly, Applicants filed their Response to Notice to File Missing Parts (Response) on November 21, 2001 via facsimile. The Response included: 1) a facsimile cover sheet, which included authorization to charge the required fees to Deposit Account No. 50-0612 (1 pg. in duplicate, 2 pgs. total); 2) a Declaration & Power of Attorney signed by the applicants (3 pgs.); 3) a copy of the Notice to File Missing Parts of Nonprovisional Application (1 pg.). A true copy of the Response filed on November 21, 2001 is attached hereto as Exhibit C.

Applicants filed the Response in accordance with the certificate of transmission procedures as set forth in 37 C.F.R. § 1.8. More particularly, the facsimile cover sheet (Exhibit C) that accompanied the Response included a signed certificate of transmission. The certificate of transmission stated the date of transmission (November 21, 2001) and identified the facsimile number of the receiving facsimile machine at the United States Patent and Trademark Office.

In accordance with 37 C.F.R. § 1.8, Applicants have attached hereto a copy of the sending facsimile machine's report (Exhibit D) confirming that all six pages of the Response were in fact transmitted and received by United States Patent and Trademark Office facsimile number 730-872-9314 on November 21, 2001. Applicants have also attached hereto a copy of the United States Patent and Trademark Office facsimile machine's Auto-Reply Facsimile Transmission report (Exhibit E) confirming that all six pages of the Response were in fact received by the Office on November 21, 2001 at 4:38:55 PM (eastern standard time).

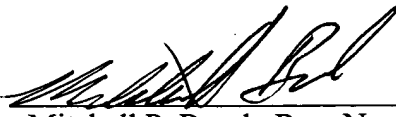
Under with 37 C.F.R. § 1.8, Applicants hereby petition the Office to accept the Response to Notice to File Missing Parts as timely filed on November 21, 2001 and withdraw the Notice of Abandonment mailed August 4, 2003.

No fee is believed due in connection with this submission. However, if a fee is due, the Commissioner is hereby authorized to charge the amount due to Deposit Account No. 50-2298, in the name of Luce, Forward, Hamilton & Scripps LLP.

Respectfully submitted,

Date

1/27/04

  
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Mitchell P. Brook, Reg. No. 32,967  
Attorney for Applicant(s)  
c/o LUCE, FORWARD, HAMILTON  
& SCRIPPS LLP  
11988 El Camino Real, Ste. 200  
San Diego, California 92130  
Telephone No.: (858) 720-6300

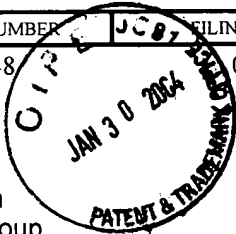


## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	09/931,648	FILING OR 371(C) DATE	08/14/2001	FIRST NAMED APPLICANT	Tim Wilkinson	ATTY. DOCKET NO./TITLE	TRAS-520
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Andrew V. Smith  
 Sierra Patent Group  
 P.O. Box 6149  
 Stateline, NV 89449



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FEB 04 2004

Technology Center 2600

CONFIRMATION NO. 2841

ABANDONMENT/TERMINATION  
LETTER

\*OC000000010628863\*

Date Mailed: 08/04/2003

## NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 09/27/2001.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

TO:Auto-reply fax to 7755869550 COMPANY:

## Auto-Reply Facsimile Transmission



UNITED STATES  
PATENT AND  
TRADEMARK OFFICE

TO:

Fax Sender at 7755869550

Fax Information

Date Received:

11/21/01 4:38:55 PM [Eastern Standard Time]

Total Pages:

6 (including cover page)



**ADVISORY:** This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 702.04 et seq.

Received  
Cover  
Page

=====&gt;

11-21-2001 13:40 From:SIERRA PATENT GROUP 7755869550 T-020 P.001/006 F-720

PATENT  
Docket No.: TRAS-520

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit: 2671

Examiner:

Serial No.: 09/931,648

Filed: August 14, 2001

In re Application of: Tim Wilkinson, et al.

For: PORTABLE OPERATING ENVIRONMENT FOR INFORMATION DEVICES

Certificate of Facsimile

I hereby certify that this correspondence is being faxed to Technology Center 2600 of the United States Patent and Trademark Office, facsimile no. 1-202-577-9316 and addressed to Director of Patents, Box Missing Parts, Washington, D.C. 20231 on 11-21-01. Signed Gerry Udon

**RESPONSE TO NOTICE TO FILE MISSING PARTS**

Director of Patents  
Box Missing Parts  
Washington, D.C. 20231

Dear Sirs:

Responsive to the Notice to File Missing Parts dated September 14, 2001,  
please find enclosed herewith:

1. A Declaration and Power of Attorney, executed by the inventors;
2. Please debit our Deposit Account No. 50-0612 the amount of \$ 444.00

for payment of filing fee and surcharge for a small entity calculated as follows:

Filing Fee	\$ 370.00
1 Additional Claim over 20:	\$ 9.00
Surcharge	\$ 65.00
Total	\$ 444.00

3. Copy of Notice to File Missing Parts.

In the event any variance exists between the amount enclosed and the patent office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, the Assistant Commissioner is hereby authorized to charge or credit the difference to our Deposit Account No. 50-0612. An additional copy of this page is enclosed.

Respectfully submitted,  
Sierra Patent Group, Ltd.

Dated: 11-21-01

Sierra Patent Group, Ltd.  
P.O. Box 6149  
Stateline, NV 89449  
(775) 586-9500

Andrew V. Smith  
Reg. No. 43,132

## **AGREEMENT**

This Agreement (together, with its Exhibits, "Agreement") is made and entered into by and between Twin Communications of America, Inc. ("Twin" or "Purchaser"), a corporation duly incorporated under the laws of California with its principal business address as set forth below on the signature page hereof, and Transvirtual Technologies, Inc., a California corporation (also referred to as "Transvirtual") with its principal business address as set forth below on the signature page hereof. Together, Purchaser and Transvirtual are the only parties to this Agreement, each a "party" and collectively "the parties."

Purchaser and Transvirtual agree as follows:

## **Section 2. Sale of Software, License of Tools, and Transfer of Know-How**

**2.1 Sale of Software and Delivery of Source Code to Purchaser.** Subject to this Agreement's terms and conditions, Transvirtual hereby sells to Purchaser the Software. Such sale includes any and all filed patents, patent applications, trade secrets, trademarks, and applications for trademarks associated with the Software, all of which, if any, are set forth in Exhibit C. All rights sold under this Section 2.1 shall be fully paid-up and royalty-free upon receipt of the payment set forth in Section 3.1. Upon receipt of the payments set forth in Section 3.1, Transvirtual will deliver to Purchaser its most current, complete and accurate copy of all Source Code, Object Code and Tools for the Software.

**2.2 License Grant.** Subject to this Agreement's terms and conditions, Transvirtual hereby grants to Purchaser the following exclusive license throughout the worldwide free to: use, copy, reproduce, market, distribute (directly or indirectly through others), sub-license (directly and/or indirectly through others), make the assignment of any other third party, make derivatives of, and otherwise commercially exploit, the Tools. All rights granted in this Section 2.2 shall be fully paid-up and royalty-free upon receipt of the payment set forth in Section 3.1.

**2.3 Transfer of Know-How.** At or within three weeks the delivery of the Source Code for the respective Software to Purchaser as described in Section 2.1, at Transvirtual's cost and through a person familiar with the Software, Transvirtual shall conduct a tutorial to transfer the know-how associated therewith, consisting of not more than 24 hours of training in the methodology, architecture, and operation of the Software for one or more of Purchaser's engineers. Such training shall be at a mutually acceptable time and place and may occur after ordinary working hours on a basis acceptable to both parties. Purchaser personnel receiving such instruction shall be reasonably proficient in the computer programming skills necessary for Transvirtual to transfer the information so that a Purchaser engineer can create, modify and implement changes to the Software.

## **Section 5. Proprietary Rights**

**5.1 Enhancements.** Purchaser shall own all Software and all transferred intellectual property rights therein, any and all modifications, upgrades, adaptations, improvements and other enhancements to the Software that it (or other(s)) makes to the Software and shall have full rights to exploit same as it sees fit, without royalty or other payment to Transvirtual.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by a duly authorized representative and acknowledge that they understand and agree to be bound by the terms and conditions of this Agreement.

April 24, 2003

April 24, 2003

**Transvirtual Technologies, Inc.**

**Twin Communications of America, Inc.**

**P.O. Box 1330  
Alamo, CA 94507 USA**

**2010 N. First Street Suite 104  
San Jose, California 95131 USA**

**Name: Noboru Kosaka  
Title: Director, responsible for TVT asset  
transfer to Twin Communications  
of America Inc.**

**Name: Nobuharu Hiruma  
Title: CEO & President**

Signature: 

Signature: 



## **Exhibit A**

## **Exhibit B**

## **Exhibit C**

### **Patents, Trademarks, Graphics, Applications etc.**

#### **Patents:**

Patents include the following one provisional patent six US patents and one PCT patent.

1. **TRAS-500:** Platform and Key Enabling Software for Information Devices and Net Appliances—  
Expired Provisional. (US Application No. 60/225,569, Filed on 08/14/2000)
2. **TRAS-510:** Portable Operating Environment for Information Devices  
US Application No. 09/931,390, Filed on 08/14/2001,  
Published on 07/11/2002, Published No. US-2002 -0091800-A1
3. **TRAS-520:** Portable Operating Environment for Information Devices  
US Application No. 09/931,648, Filed on 08/14/2001,  
Not published yet
4. **TRAS-530:** Portable Operating Environment for Information Devices  
US Application No. 09/931,576, Filed on 08/14/2001,  
Published on 06/13/2002, Published No. US-2002-0070951-A1
5. **TRAS-540:** Portable Operating Environment for Information Devices  
US Application No. 09/931,391, Filed on 08/14/2001,  
Published on 05/16/2002, Published No. US-2002-0057290-A1
6. **TRAS-550:** Portable Operating Environment for Information Devices  
US Application No. 09/931,393, Filed on 08/14/2001,  
Published on 05/16/2002, Published No. US-2002-0057837-A1
7. **TRAS-560:** Portable Operating Environment for Information Devices  
US Application No. 09/925,888, Filed on 08/14/2001,  
Published on 07/25/2002, Published No. US-2002-0099867-A1
8. **TRAS-510PCT:** Portable Operating Environment for Information Devices  
US Application No. PCT/US01/25632, Filed on 08/14/2001,  
Published on 02/21/2002, Published No. W02/15004